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REMARKS

Restriction Requirement

Applicants cancel claims 1-16, 52-56, and 62-75 in response to the restriction requirement without prejudice to resubmitting them in a divisional application.

While the examiner included product claims 52-56, and 62-75 in group II, it is clear to the undersigned from the description of group II that the examiner intended to include only process claims.

Formalities

Applicants formally cancel claim 59 as requested.

Compliance with 35 U.S.C. §103(a)

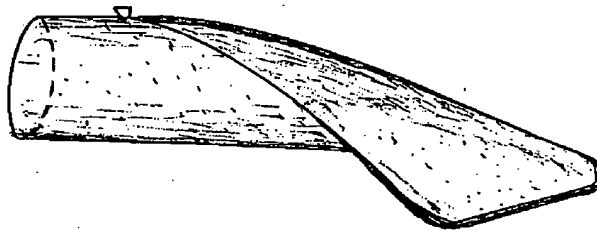
Tusim et al. is cited as prior art via 35 U.S.C. § 102(e). It relies on two provisional applications for priority, namely 60/086,944 and 60/089,058. The first provisional was filed prior to the September 17, 1998, U.S. priority date of this application and the second provisional application was filed after that date.

Therefore, Tusim et al. is *prima facie* available as prior art only for subject matter disclosed in the first provisional application no. 60/086,944 and not subject matter disclosed in the second provisional application no. 60/089,058. The subject matter disclosed in first provisional application is not identical with the subject matter disclosed in U.S. 6,251,319. Applicants are mailing a non-certified copy of the first provisional application under separate cover on the assumption that the examiner has access to the official copy. If that is not the case, applicants are prepared to provide a certified copy of the first provisional application on request.

The arguments which follow will show that the first provisional application does not render the subject matter of the examined claims obvious. Such arguments are NOT an admission that Tusim et al. were the first to invent the claimed subject matter. Applicants reserve the right to revert to that threshold issue and submit a declaration under 37 CFR 1.131 or 1.132 if necessary.

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According to Tusim et al., a foamable composition is extruded through an annular extrusion die to form a foam tube, which is then slit in the lengthwise direction to open the tube into a sheet. This process of opening the foam tube is illustrated below:



As can be seen, this slitting process does not affect the cells on the upper and lower surfaces of the foam sheet. Only the cells intersecting with where the tube is slit open are affected. That process cannot greater than 50 percent of the cells in the foam sheet as required by claim 17. In fact, only a small fraction of that percentage are opened and there is no teaching which would motivate the person of ordinary skill to open a larger percentage of cells.

For the above reasons, the subject matter of the claims complies with 35 U.S.C. § 103. If any minor issues remain, Applicants invite the Examiner to contact the undersigned via Dan Howard at telephone number (989) 636-7494. The undersigned will respond quickly to any requests or comments.

Respectfully submitted,

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CLAIMS:

1. (Cancelled) A cellular thermoplastic polymer foam having an average cell diameter of greater than 4 mm.
2. (Cancelled) A cellular thermoplastic polymer foam having an average cell diameter of greater than 2 mm wherein greater than 50 percent of the cells have been opened by mechanical means.
3. (Cancelled) A cellular thermoplastic polymer foam according to Claim 2 wherein the average cell diameter is greater than 3 mm.
4. (Cancelled) A cellular thermoplastic polymer foam according to Claim 3 wherein the average cell diameter is greater than 4 mm.
5. (Cancelled) A cellular thermoplastic polymer foam having an airflow resistivity of less than 800,000 Rayls/m and an average cell diameter of greater than 2 mm, wherein greater than 50 percent of the cells have been opened by mechanical means.
6. (Cancelled) A cellular thermoplastic polymer foam according to Claim 5 wherein the average cell diameter is greater than 3 mm.
7. (Cancelled) A cellular thermoplastic polymer foam according to Claim 6 wherein the average cell diameter is greater than 4 mm.
8. (Cancelled) A cellular thermoplastic polymer foam according to Claim 5 having an airflow resistivity of less than 400,000 Rayls/m.
9. (Cancelled) A cellular thermoplastic polymer foam according to Claim 6 having an airflow resistivity of less than 400,000 Rayls/m.
10. (Cancelled) A cellular thermoplastic polymer foam according to Claim 7 having an airflow resistivity of less than 400,000 Rayls/m.
11. (Cancelled) A cellular thermoplastic polymer foam according to Claim 5 having an airflow resistivity of less than 100,000 Rayls/m.
12. (Cancelled) A cellular thermoplastic polymer foam according to Claim 6 having an airflow resistivity of less than 100,000 Rayls/m.

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13. ~~(Cancelled)~~ A cellular thermoplastic polymer foam according to Claim 7 having an airflow resistivity of less than 100,000 Rayls/m.

14. ~~(Cancelled)~~ A cellular thermoplastic polymer foam according to Claim 5 having an airflow resistivity of less than 50,000 Rayls/m.

15. ~~(Cancelled)~~ A cellular thermoplastic polymer foam according to Claim 6 having an airflow resistivity of less than 50,000 Rayls/m.

16. ~~(Cancelled)~~ A cellular thermoplastic polymer foam according to Claim 7 having an airflow resistivity of less than 50,000 Rayls/m.

17. (Once Amended) A process for preparing a cellular thermoplastic polymer foam structure comprising the steps of:

a) providing a first cellular thermoplastic polymer foam structure with an average cell diameter of from 2 mm to 15 mm, wherein at least some portion of the cells thereof are closed-cells; and

b) applying a means for opening closed-cells in a cellular thermoplastic polymer foam to at least some portion of at least one surface of said first thermoplastic polymer foam structure, such application being sufficient to result in a cellular thermoplastic polymer foam structure having an average cell diameter of from 2 mm to 15 mm wherein greater than 50 percent of the cells have been opened by the application of the means for opening closed-cells in a cellular thermoplastic polymer foam.

18. A process according to Claim 17 wherein the first cellular thermoplastic polymer foam structure is substantially closed-celled.

19. A process according to Claim 17 wherein the first cellular thermoplastic polymer foam structure is substantially open-celled.

20. A process according to Claim 17 wherein the first cellular thermoplastic polymer foam structure has an average cell diameter of from 2 mm to 10 mm.

21. A process according to Claim 20 wherein the first cellular thermoplastic polymer foam structure has an average cell diameter of from 3 mm to 10 mm.

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22. A process according to Claim 21 wherein the first cellular thermoplastic polymer foam structure has an average cell diameter of from 4 mm to 8 mm.

23. A process according to Claim 17 wherein the first cellular thermoplastic polymer foam structure is prepared from an olefinic polymer.

24. A process according to Claim 23 wherein the olefinic polymer is selected from ethylenic polymers, copolymers, or blends thereof.

25. A process according to Claim 23 wherein the olefinic polymer is polypropylene.

26. (Once Amended) A process according to Claim 25 wherein the thermoplastic polymer further comprise(s) polyethylene resin(s).

27. A process according to Claim 24 wherein the ethylenic polymer is a low density polyethylene.

28. (Once Amended) A process according to Claim 26 wherein the polyethylene resin(s) comprise a low density polyethylene.

29. (Once Amended) A process according to Claim 28 wherein the thermoplastic polymer further comprises an ethylenic copolymer and a low density polyethylene.

30. (Cancelled)

31. A process according to Claim 17 wherein greater than 70 percent of the cells of the cellular thermoplastic polymer foam structure have been opened by the application of the means for opening closed-cells in a cellular thermoplastic polymer foam.

32. A process according to Claim 17 wherein greater than 90 percent of the cells of the cellular thermoplastic polymer foam structure have been opened by the application of the means for opening closed-cells in a cellular thermoplastic polymer foam.

33. A process according to Claim 17 wherein the cellular thermoplastic polymer foam structure has an airflow resistivity of less than 800,000 Rayls/m.

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34. A process according to Claim 33 wherein the cellular thermoplastic polymer foam structure has an airflow resistivity of less than 400,000 Rayls/m.

35. A process according to Claim 34 wherein the cellular thermoplastic polymer foam structure has an airflow resistivity of less than 100,000 Rayls /m.

36. A process according to Claim 35 wherein the cellular thermoplastic polymer foam structure has an airflow resistivity of less than 50,000 Rayls/m.

37. A process according to Claim 17 wherein said means for opening is selected from perforation, slicing, compression, or combinations thereof.

38. A process according to Claim 37 wherein said means for opening includes slicing.

39. A process according to Claim 37 wherein said means for opening includes compression.

40. A process according to Claim 39 wherein said means for opening is perforation followed by compression.

41. A process according to Claim 37 wherein said means for opening includes perforation.

42. A process according to Claim 41 wherein the perforation comprises one or more square patterns.

43. A process according to Claim 41 wherein the perforation is performed in a one or more triangular patterns.

44. A process according to Claim 41 wherein the means for opening is a compression followed by perforation.

45. A process according to Claim 41 wherein the perforation is performed in a manner which results in the perforations being spaced one from another at distances which are no greater than two times the average diameter of the cells within the first cellular thermoplastic polymer foam structure.

46. A process according to Claim 45 wherein the perforation is performed in a manner which results in the perforations being spaced one from

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another at distances which are no greater than 1.5 times the average diameter of the cells within the first cellular thermoplastic polymer foam structure.

47. A process according to Claim 46 wherein the perforation is performed in a manner which results in the perforations being spaced one from another at distances which are approximately equal to the average diameter of the cells within the first cellular thermoplastic polymer foam structure.

48. A process according to Claim 46 wherein the perforation is performed in a manner which results in the perforations being spaced one from another at distances which are less than the average diameter of the cells within the first cellular thermoplastic polymer foam structure.

49. A process according to Claim 41 wherein the perforation comprises puncturing the first cellular thermoplastic polymer foam structure with one or more pointed, sharp objects.

50. A process according to Claim 49 wherein the pointed, sharp objects is selected from needles, pins, spikes, or nails.

51. A process according to Claim 48 wherein the perforation comprises puncturing the first cellular thermoplastic polymer foam structure by drilling, laser cutting, high pressure fluid cutting, air guns, or projectiles.

52. ~~(Cancelled) A foam according to Claim 1 further comprising a fire retardant.~~

53. ~~(Cancelled) A foam according to Claim 1 wherein the foam has been formed into a profile having a low dynamic stiffness.~~

54. ~~(Cancelled) A foam according to Claim 1 wherein the foam is prepared from an olefinic polymer.~~

55. ~~(Cancelled) A foam according to Claim 54 wherein the olefinic polymer is selected from ethylenic polymers, copolymers, or blends thereof.~~

56. ~~(Cancelled) A foam according to Claim 54 wherein the olefinic polymer is polypropylene.~~

57. (Cancelled) .

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58. (Once Amended) A process according to Claim 31 wherein the thermoplastic polymer comprise(s) a low density polyethylene combined with polypropylene and/or an ethylene copolymer.

59. ~~(Cancelled)~~ (Once Amended) A process according to Claim 24 wherein the ethylenic polymer is a blend of a low density polyethylene and an ethylene-styrene interpolymers.

60. (Once Amended) A process according to Claim 58 wherein the cellular thermoplastic polymer foam structure has an average cell size greater than 4 mm.

61. (Once Amended) A process according to Claim 17 wherein the cellular thermoplastic polymer foam structure has an average cell size greater than 4 mm.

62. ~~(Cancelled)~~ A foam according to Claim 53 wherein the profile is comprised of a core of cellular thermoplastic foam to which narrow strips of the same or a different cellular thermoplastic polymer foam have been attached alternately on opposite sides of the foam core.

63. ~~(Cancelled)~~ A foam according to Claim 62 wherein the distances between the middle point of the narrow strips of cellular thermoplastic polymer foam are at least 250 mm.

64. ~~(Cancelled)~~ A foam according to Claim 63 wherein the distances between the middle points of the narrow strips of cellular thermoplastic foam on the same side of the foam core are from 300 mm to 600 mm.

65. ~~(Cancelled)~~ A foam according to Claim 53 wherein the profile is comprised of a core of cellular thermoplastic foam to which narrow strips of the same or a different cellular thermoplastic foam structure have been attached on the same side and at opposite ends of the foam core.

66. ~~(Cancelled)~~ A foam according to Claim 65 wherein the distances between the middle points of the narrow strips are at least 350 mm.

67. ~~(Cancelled)~~ A foam according to Claim 66 wherein the distances between the middle points of the narrow strips are between 450 mm to 600 mm.

68. ~~(Cancelled)~~ A foam according to Claim 2 wherein the foam has been formed into a profile having a low dynamic stiffness.



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69. ~~(Cancelled)~~ A foam according to Claim 68 wherein profile is comprised of a core of cellular thermoplastic foam to which narrow strips of the same or a different cellular thermoplastic polymer foam have been attached alternately on opposite sides of the foam core.

70. ~~(Cancelled)~~ A foam according to Claim 69 wherein the distances between the middle point of the narrow strips of cellular thermoplastic polymer foam are at least 250 mm.

71. ~~(Cancelled)~~ A foam according to Claim 70 wherein the distances between the middle points of the narrow strips of cellular thermoplastic foam on the same side of the foam core are from 300 mm to 600 mm.

72. ~~(Cancelled)~~ A foam according to Claim 68 wherein the profile is comprised of a core of cellular thermoplastic foam to which narrow strips of the same or a different cellular thermoplastic foam structure have been attached on the same side and at opposite ends of the foam core.

73. ~~(Cancelled)~~ A foam according to Claim 72 wherein the distances between the middle points of the narrow strips are at least 350 mm.

74. ~~(Cancelled)~~ A foam according to Claim 73 wherein the distances between the middle points of the narrow strips are between 450 mm to 600 mm.

75. ~~(Cancelled)~~ A foam according to any one of Claims 1 and 52 to 61, wherein the foam is obtainable by extruding a foamable gel, comprising the thermoplastic polymer having a blowing agent incorporated therein, through a die into a lower pressure zone which is at atmospheric or subatmospheric pressure.

76. (Once Amended) A process according to Claim 17, wherein the cellular thermoplastic foam structure is an extruded foam in which the cells are elongated and the orientation of cell elongation is in the extrusion direction.

77. (Once Amended) A process according to Claim 60, wherein the cellular thermoplastic foam structure is an extruded foam in which the cells are elongated and the orientation of cell elongation is in the extrusion direction.

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78. (Once Amended) A process according to Claim 17, wherein the cellular thermoplastic polymer foam structure is in a coalesced strand form.

79. (Once Amended) A process according to Claim 60, wherein the cellular thermoplastic polymer foam structure is in a coalesced strand form.

80. (Once Amended) A process according to Claim 17, wherein the cellular thermoplastic polymer foam structure is in the form of non-crosslinked beads.

81. (Once Amended) A process according to Claim 17, wherein the cellular thermoplastic polymer foam structure has an average cell diameter greater than 2 mm and greater than 50 percent of the cells have been opened by mechanical means measured according to ASTM D2856, Procedure C.

82. (Once Amended) A process according to Claim 17, wherein the cellular thermoplastic polymer foam structure has been grafted with a vinyl functional silane or an azido functional silane.

83. (Once Amended) A process according to Claim 82 further comprising crosslinking the cellular thermoplastic polymer foam structure.